

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: S. Kalled and H. Reid)	
)	
Application No.: 10/505,376)	Group Art Unit: 1649
)	
)	Examiner: D. Kolker
Filed: July 1, 2005)	
)	
)	
For: USE OF BCMA AS AN)	Confirmation No.: 2363
IMMUNOREGULATORY AGENT)	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

The above-identified application became abandoned for failure to file a timely and proper response to the Office action mailed on January 23, 2009, which set a three-month period for response. The abandonment date of this application is April 24, 2009 (i.e., the day after the expiration date of the three-month period set for response). The entire delay in filing the required reply, from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b), was unintentional, as demonstrated below.

Applicant hereby petitions for revival of this application. The petition fee of \$1,620.00 is enclosed. In addition, Applicant submits a response to the above-noted

Office action in the form of a divisional application. Because this application was filed on or after June 8, 1995, no terminal disclaimer is required.

Remarks


The above-identified application is assigned to Biogen Inc. (Biogen) and LaTrobe University (LaTrobe). Certain subject matter disclosed and originally claimed in the application, namely, antibodies to BAFF ligand, is exclusively licensed to Glaxo SmithKline (GSK) and Human Genome Sciences (HGS) (collectively "GSK/HGS"). A restriction requirement issued on November 19, 2008, requiring restriction among various aspects of the claimed subject matter, including antibodies to BAFF ligand. In response to the restriction requirement, the claims were amended so as to no longer claim antibodies to BAFF ligand. A first substantive office action was issued on January 23, 2009. On instructions from Biogen in-house counsel dated July 8, 2009, no response to this office action was filed. The application thus became abandoned.

Neither GSK/HGS nor LaTrobe intended to abandon the application, and Biogen's in-house counsel did not intend to deprive GSK/HGS of any rights in the BAFF ligand antibody subject matter. Upon learning of the abandonment of the application on November 18, 2009, GSK/HGS contacted Biogen in-house counsel on November 19, 2009 to investigate the circumstances of the abandonment and determine possible remedies, leading to the filing of this petition and the accompanying divisional application (U.S. Application No. 12/862,448, filed August 24, 2010, courtesy copy of e-filing receipt attached) claiming the BAFF ligand antibody technology. All of the delay involved in filing this petition for revival was unintentional.

If there are any additional fees due in connection with the filing of this Petition,
the Commissioner is authorized to charge such fees to Deposit Account 06-0916.

Respectfully submitted,

Dated: August 24, 2010

By: 
Leslie A. McDonell
Reg. No. 34,872

Attachment

Courtesy Copy of e-filing receipt for U.S. Application No. 12/862,448, filed August 24, 2010.

Electronic Acknowledgement Receipt

EFS ID:	8282230
Application Number:	12862448
International Application Number:	
Confirmation Number:	4026
Title of Invention:	USE OF BCMA AS AN IMMUNOREGULATORY AGENT
First Named Inventor/Applicant Name:	Susan L. Kalled
Customer Number:	65779
Filer:	Leslie A. McDonell/Carol Karuzis
Filer Authorized By:	Leslie A. McDonell
Attorney Docket Number:	08201.0028-01000
Receipt Date:	24-AUG-2010
Filing Date:	
Time Stamp:	17:09:40
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		application.PDF	2623854 <small>c2b0f55d9a1fe7197f059f0eb041d3c3d0b7f4</small>	yes	66

	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Specification		1	48	
	Claims		49	52	
	Abstract		53	53	
	Drawings-only black and white line drawings		54	66	
Warnings:					
Information:					
2	Miscellaneous Incoming Letter	sequence_statement.pdf	35627 00fead0c504c3ccbe331993050ca31916e00818	no	1
Warnings:					
Information:					
3	Sequence Listing	sequence_listing.PDF	129177 ba5a8eeb6c4420ae699b7c97c7a2ca1add9c335d	no	5
Warnings:					
Information:					
4	Transmittal of New Application	Transmittal.pdf	94538 31e61859c3107599717e06d0e23f010b925a000	no	2
Warnings:					
Information:					
5	Oath or Declaration filed	declaration_POA.pdf	165038 94779d86498cd651ae0775a7ab-d05d304718180	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			3048234		